

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT ASHTON,
Plaintiff

v.

CHARLES T. KNEPP, et al.,
Defendant

:
:
:
:
:
:
:
:

No. 1:12-cv-01920

(Judge Kane)

(Magistrate Judge Mehalchick)

ORDER

AND NOW, on this 5th day of August 2014, **IT IS HEREBY ORDERED THAT** Magistrate Judge Mehalchick's Report and Recommendation (Doc. No. 119) is **ADOPTED**, Defendants' objections (Doc. No. 120) are **OVERRULED**, and Defendants' motions to dismiss with prejudice (Doc. Nos. 77, 81) are **GRANTED** with respect to the follow claims:

- (1) Plaintiff's claims against Defendants Knepp, Gingerich, Jacobson, Reedy, Tritt, Sommers, and Pepperling in their official capacities;
- (2) Plaintiff's claims against the Department of Corrections, the Bureau of Community Corrections, Wernersville Community Corrections Center, and Luzerne County Probation Services as barred by the Eleventh Amendment;
- (3) Plaintiff's conspiracy claims against all Defendants;
- (4) Plaintiff's claims against Tritt, Sommers, Gingerich, and Jacobson in their supervisory roles;
- (5) Plaintiff's Fourth Amendment claims;
- (6) Plaintiff's procedural due process claim;
- (7) Plaintiff's Civil Rights Act claim;
- (8) Plaintiff's municipal liability claims against Defendants the Department of Corrections, the Bureau of Community Corrections, Wernersville Community Corrections Cetner, Luzerne County Probation Services, Tritt, Sommers, Gingerich, and Jacobson;

- (9) Plaintiff's Fifth Amendment claims;
- (10) Plaintiff's credit for time claims against the Department of Corrections;
- (11) Plaintiff's Anti-Discrimination claim pursuant to the Pennsylvania Constitution;
- (12) Plaintiff's IIED claim; and,
- (13) Plaintiff's defamation claim.

IT IS FURTHER ORDERED THAT Defendants' motion to dismiss the following claims (Doc. No. 77) is **GRANTED WITHOUT PREJUDICE** to Plaintiff's right to amend his complaint regarding these claims within thirty days of the date of this order:

- (1) Plaintiff's Americans with Disabilities Act and Rehabilitation claims against Defendants Knepp, Gingerich, and Jacobson; and
- (2) Plaintiff's Pennsylvania Human Relations Act claim.

IT IS FURTHER ORDERED THAT Defendants' motion to dismiss (Doc. No. 77) is **DENIED** with respect to:

- (1) Plaintiff's First Amendment retaliation claim against Defendants Knepp and Gingerich,
- (2) Plaintiff's Higher Education Act claim,
- (3) Plaintiff's Equal Protection Claim against Defendants Knepp, Gingerich, Reedy, and Jacobson, and,
- (4) Plaintiff's Eighth Amendment claims against Defendants Knepp, Gingerich, and Reedy.

IT IS FURTHER ORDERED THAT the case is referred back to the Magistrate Judge for further pretrial management.

S/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania